



220BEP-029

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

February 20, 2003

Reply To
Attn Of: ECO-088

Ref: 03-088-DOE

COB Energy Facility Comments
Bonneville Power Administration (KC-7)
P.O. Box 14428
Portland, OR 97293-4428

Dear Sir/Madam:

The U.S. Environmental Protection Agency (EPA) has completed its review of the draft Environmental Impact Statement (EIS) for the proposed COB Energy Facility (CEQ No. 030539) in accordance with our authorities and responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. The draft EIS has been prepared by the Bonneville Power Administration (BPA) and Bureau of Land Management (BLM) in response to a proposal to construct and operate a natural gas-fired power plant in Klamath County, Oregon and to distribute the generated power over the Federal transmission grid operated by BPA. The EIS evaluates the applicant's proposed power plant and a single transmission line alignment as well as the No Action alternative. An agency-preferred alternative is not identified in the draft EIS.

Based on our review and evaluation, we have assigned a rating of EC-2 (Environmental Concerns -Insufficient Information) to the draft EIS. This rating and a summary of our comments will be published in the *Federal Register*. A copy of the rating system used in conducting our review is enclosed for your reference.

Our major concerns are related to the lack of detailed evaluation of alternatives to the proposed site for the energy generation facility and the route of the proposed transmission line. The EIS does not provide sufficient information to demonstrate that a rigorous, objective evaluation of alternatives has been conducted by BPA and BLM and we recommend that such evaluations be conducted and included in the EIS. These concerns are discussed in greater detail in the enclosure to this letter.

Thank you for the opportunity to provide comments on the draft EIS. I urge you to contact Bill Ryan of my staff at (206) 553-8561 at your earliest opportunity to discuss our comments and how they might best be addressed.

Sincerely,

/s/

Judith Leckrone Lee, Manager
Geographic Implementation Unit

Enclosures

cc: Tom McKinney, BPAEPA Comments
on the
Draft Environmental Impact Statement (EIS)
for the
COB Energy Facility

*narrow range
of alternatives*

We are greatly concerned with the extremely narrow range of alternatives being evaluated in the draft EIS. With the elimination of all alternatives to the applicant's proposed power plant location from detailed review, the evaluation of a single transmission line alignment, and the assessment of only one alignment for each of the proposed gas and water supply pipelines, the EIS evaluates a single action alternative and a no action alternative. The evaluation of a single alternative appears to be inconsistent with the direction of the National Environmental Policy Act (NEPA) regulations to "present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options to the decision maker and the public" (see 40 CFR 1502.14). It also suggests that the proposed project (in its entirety) has not undergone the hard look by the Federal government required by NEPA. While we understand that formal approvals related to the siting, construction and operation of the proposed power plant are to be made by the Oregon Energy Facility Siting Council, the decision to allow the power plant to connect to the regional grid operated by the Bonneville Power Administration (BPA) and utilize it to transmit the generated power is integral to project operation, "enabling" the project to be functional. Similarly, a decision by the Bureau of Land Management (BLM) to grant a right-of-way for the proposed transmission line would also "enable" the operation of the project.

Because the decisions by BPA and BLM will ultimately result in impacts to the environment, including direct and indirect impacts to essential or important fish and wildlife habitat, it is critical that reasonable alternatives to all components of the proposed project are rigorously explored and objectively evaluated as required by the NEPA implementing regulations (see 40 CFR 1502.14(a)). Through this evaluation process, NEPA is used to identify and assess alternatives that will avoid or minimize adverse effects and demonstrate that all practicable means have been taken to avoid and minimize potential effects (see 40 CFR 1500.2 (e) and (f)). As written, the EIS does not provide sufficient information to demonstrate that a rigorous, objective evaluation of alternatives has been conducted by BPA and BLM. Consequently, we believe that it is incumbent on BPA, as lead agency, to ensure that the NEPA process is used to rigorously explore and objectively evaluate all reasonable alternatives to meet the underlying purpose and need (per 40 CFR 1502.13 and 1502.14) before Federal decisions are made and resources are committed.

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Our concerns related specifically to the range of alternatives to the proposed facility site and the proposed transmission line are presented below.

Power Generation Facility

29B The EIS presents no evidence that BPA and BLM have conducted their own independent evaluation of the proposed generating facility or that all practicable means have been taken to avoid or reduce potential effects, per the NEPA regulations. Section 2.3.1.1 provides a discussion of the location of the generating facility proposed by the project proponent along with criteria that were considered in determining the site. The discussion concludes by briefly stating that the project proponent considered eleven alternative sites and determined that none of the alternatives successfully met the siting criteria. The alternative sites are not identified on a map nor is it explained in the EIS why each site was ultimately rejected.

29C Alternative plant locations would directly influence BPA's decision on whether and how to provide transmission service to the project (as well as associated effects and costs) and have a bearing on any right-of-way decision that the BLM would need to make. Alternative sites for the generating facility could potentially result in shorter pipelines and/or transmission lines, thereby reducing associated environmental and other effects. As a consequence, we recommend that alternative facility locations receive the necessary objective consideration and evaluation required under NEPA. The EIS should include discussions of the reasons for eliminating each alternative from detailed evaluation, as required by the NEPA regulations (40 CFR 1502.14(a)).

29D The Council on Environmental Quality (CEQ) states in their *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations* (46 Federal Register 18026, March 23, 1981) that "in determining the scope of alternatives to be considered, the emphasis is on what is 'reasonable' rather than on whether the proponent or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant." The CEQ also states that "an alternative that is outside the legal jurisdiction of the lead agency must still be analyzed in the EIS if it is reasonable." This guidance should be considered in the evaluation of alternative facility locations.

29E Information in the EIS suggests that an existing natural gas pipeline is located in close proximity to the Captain Jack substation, the location where the power generated from the project is proposed to enter the regional grid. It appears that siting the proposed facility closer to the Captain Jack substation could potentially result in less environmental impacts because a shorter transmission line and gas pipeline would be needed. It would also be located closer to the town of Malin, identified in the EIS as having suitable rail infrastructure for construction and support of the proposed facility. The EIS should include a discussion and assessment of alternative sites that could potentially reduce environmental impacts by being located in closer proximity to the existing gas pipeline, the Captain Jack substation, and the town of Malin.

Transmission Line Routes

The EIS indicates that limited evaluation of alternatives to the proposed

transmission line has been undertaken. While Section 2.5.2.3 discusses two additional transmission alternatives (ROW Alternative and Direct Connection to Intertie) and outlines the reasoning for why they do not receive detailed evaluation in the EIS, it is not clear that those two alternatives embody the full range of reasonable alternative options available to deliver generated power to the transmission grid. The EIS should more fully discuss how the range of alternatives evaluated represent the only reasonable options to the propose transmission line for delivering power to the grid. This is particularly important because the result of the evaluation has resulted in the full consideration and evaluation of a single alternative transmission line route in the EIS.

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The EIS should also demonstrate that the proposed transmission line route has been selected and designed to avoid and minimize potential impacts on plant communities and fish and wildlife habitat, consistent with the direction of the NEPA regulations. As written, the EIS is not clear that this has been done, as most proposed mitigation identified in the EIS for plants and wildlife include the phrases "to the extent practicable" or "where feasible." This suggests that project-related impacts are not sufficiently understood to clearly define the type and location of needed mitigation. The final EIS should reflect a better understanding of project impacts and the appropriate level of protection for the resources that would be impacted. Mitigation measures should include affirmative statements of what would be done, and where, to provide the public and decision makers with a clear understanding of the effects (including application of needed mitigation) from the project.

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